



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0097]

RIN 1625-AA00

Safety Zone, Temporary Change for Recurring Fireworks

Display within the Fifth Coast Guard District, Pamlico River
and Tar River; Washington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement period and location of safety zone regulations for a recurring fireworks display within the Fifth Coast Guard District. This regulation applies to two recurring fireworks display events that take place at Washington, NC. Safety zone regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Pamlico River and Tar River near Washington, NC, during the event.

DATES: This rule will be effective from June 8, 2012 until July 5, 2012 and enforced on June 8, 2012 and July 4, 2012 from 7:30 p.m. to 10:30 p.m.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2012-0097 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0097 in the "Search" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Chief Warrant Officer Joseph Edge, Prevention Department, Coast Guard Sector North Carolina, Atlantic Beach, NC; telephone 252-247-4525, e-mail Joseph.M.Edge@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 13, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone, Temporary Change for Recurring Fireworks Display within the Fifth Coast Guard District, Pamlico River and Tar River; Washington, NC in the

Federal Register (77 FR 14703). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Given the timing of the event, it would be impracticable to allow 30 days after publication before enforcing this safety zone.

Background and Purpose

Fireworks display events are frequently held on or adjacent to navigable waters within the boundary of the Fifth Coast Guard District. For a description of the geographical area of each Coast Guard Sector - Captain of the Port Zone, please see 33 CFR 3.25.

This regulation temporarily changes the enforcement period and geographic location for a safety zone for two annually recurring fireworks events, described at (d)(7) of the Table to 33 CFR 165.506, that are normally scheduled to occur each year on the second Saturday in June and on the first Saturday after July 4th. This regulation applies to only the fireworks events listed in the Table to § 165.506, section (d)7.

On June 8, 2012 and July 4, 2012, the Town of Washington, NC will sponsor their annual fireworks events. These events will take place in Washington, NC on the waters

of the Pamlico River. The regulation at 33 CFR 165.506 is enforced annually for this event. Also, a fleet of spectator vessels is expected to gather near the event site to view the fireworks. To provide for the safety of participants, spectators, and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area from 7:30 p.m. to 10:30 p.m. on June 8, 2012 and July 4, 2012. The regulation at 33 CFR 165.506 will be enforced for the duration of the event. Vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

The Table to § 165.506, event (d)(7) establishes the enforcement date and geographic location for the fireworks events held in Washington, North Carolina. This regulation temporarily changes the enforcement location to latitude 35°32'25" N, longitude 077°03'42" W. The temporary safety zone will be enforced from 7:30 p.m. to 10:30 p.m. on June 8, 2012 and July 4, 2012, and will restrict general navigation in the regulated area during the event. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel will be allowed to enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this regulation will restrict access to the area, the effect of this rule will not be significant because: (i) the safety zone will only be in effect from 7:30 p.m. to 10:30 pm on June 08, 2012 and July 04, 2012; (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly; (iii) although the safety zone will apply to the section of the Pamlico River and Tar River, vessel traffic will be able to transit safely around the safety zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a

significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the specified portion of Pamlico River and Tar River from 7:30 p.m. to 10:30 p.m. on June 8, 2012 and July 4, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will only be in effect for three hours each day from 7:30 p.m. to 10:30 p.m. Although the safety zone will apply to a section of the Pamlico River, vessel traffic will be able to transit safely around the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on

it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more (adjusted for inflation) in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a)

and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or

use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969

(NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of this instruction. This rule establishes a temporary safety zone to protect the public from fireworks fallout. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. At § 165.506, in the Table to § 165.506, make the following amendments:

a. Under "(d) Coast Guard Sector North Carolina-COTP Zone," suspend entry 7, from June 7, 2012 through June 9,

2012, and from July 3, 2012 through July 8, 2012.

b. Under "(d) Coast Guard Sector North Carolina-COTP Zone," add entry 14, which will be enforced from 7:30 p.m. to 10:30 p.m. on June 8, 2012 and from 7:30 p.m. to 10:30 p.m. on July 4, 2012, to read as follows:

§ 165.506-T05-0097 Safety Zones; Fifth Coast Guard District
Fireworks Displays.

* * * * *

TABLE to § 165.506

All coordinates listed in the Table to § 165.506 reference

Datum NAD 1983.

(d.) Coast Guard Sector North Carolina - COTP Zone			
No.	Date	Location	Regulated Area
*****	*****	*****	*****
14.	June 8, 2012, July 4, 2012	Pamlico River and Tar River, Washington NC, Safety Zone.	All waters of Pamlico River and Tar River within a 300 yard radius of latitude 35°32'25" N, longitude 077°03'42" W, a position located on the southwest shore of the Pamlico River, Washington, NC.

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Dated: May 5, 2012

Anthony Popiel
Captain, U.S. Coast Guard
Captain of the Port North Carolina

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